

Remarks/Arguments

This amendment is in response to the Office Action dated April 21, 2006.

Claims 1, 2, 4, 5, 11-15 remain in this application. Claims 6 and 7 have been canceled.

Claims 1, 2, 12, and 14 have been rejected under 35 USC 102(b) by Leason et al (US 5360413).

Applicants disagree.

The present invention requires a valve that has a body and a plunger within the body that are both made of plastic.

As admitted in paragraph 5 of the present Office Action, Leason does not teach the device being made of plastic

As anticipation is one of strict identity and as the cited reference fails to teach the claimed elements, the rejection under 35 USC 102(b) must be withdrawn as being unsupported by the teachings of the cited reference.

Claims 4, 5, 11, 13 and 15 have been rejected under 35 USC 103(a) over Leason in view of Tessman et al (US 6210372). Applicants disagree.

The office action states claims 4 and 11 differ from Leason in that the device is plastic and that Claim 5 differs in that the device is made of polyetherimide. Tessman is said to teach the use of polyetherimide in devices and it would have been obvious from the cited combination to form the device of Leason of a thermoplastic, such as polyetherimide, so it could withstand sterilization.

One of ordinary skill in the art would not have considered the combination of Leason with Tessman.

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Contrary to the statement made in the Office Action, Leason specifically teaches its piston and stretchable member are formed of a soft, stretchable material such as latex or silicone rubber or Krayton, Sanoprene or Hytrel (Col 5, lines 6-12 " **The piston 18 and stretchable member 20 are preferably made of latex rubber or silicone rubber.** These materials have been found to provide a good biasing force with minimal cold flow when the device is used. Other materials that could be used where cold flow is not a concern are Kraton, Sanoprene and Hytrel plastics." (Applicants emphasis) Also see Col 5, lines 39-41, "... the piston 18 and stretchable member 20 is made of a soft material to assure sealing and a good biasing action.").

It's clear to one of skill in the art that this component would need to be so in order for the device of Leason to work. One would not have looked to a disclosure of hard, non-resilient plastics as taught in Tessman for replacement materials used in a flexible, stretchy piston/sealing device. In doing so, one would render the device of Leason moot and unworkable. As such, the cited combination is improper and cannot be combined as cited in the office action and therefore a *prima facie* case of obviousness has not been established. As such, the rejection is respectfully requested to be withdrawn.

At best one would consider using a thermoplastic for the outer housing of Leason and a resilient material such as silicone for the parts that need to be flexible. Tessman does this as well. Note that the cited portion of Tessman used to support the rejection clearly states that the "delivery cap 100, cartridge 200, locking clamp 300 and interconnect insert 150 can be made by injection molding using thermoplastics such as polysulfone, polyetherimide....".

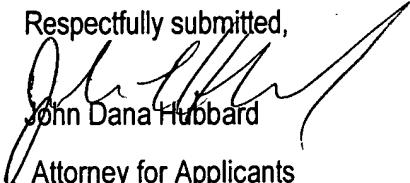
The compressive sleeve 140 is still taught as being made of silicone rubber in the same section cited for support of the office action (Col 6, lines 59-60). Yet even that combination does not

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teach or suggest the present invention. As such the *prima facie* case of obviousness has been successfully rebutted and the claims are in condition for allowance.

Reconsideration and allowance of the remaining claims is respectfully requested in view of the foregoing remarks.

Respectfully submitted,



John Dana Hubbard

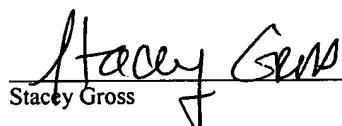
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